

## Message Text

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ACTION AGR-08

INFO OCT-01 EA-06 ISO-00 EB-07 COME-00 /022 W

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 6325

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USDA/FAS/K. STEPHENS/CEP AND D. WILLIAMS/COT/FMD  
STATE/J. WILLIAMS/F&TD

E.O. 11652: N/A

TAGS: EAGR, RP

SUBJECT: COTTON CONTRACT PROBLEMS

SUMMARY. AGATT AND COMATT REVIEWED MAJOR STICKING POINTS OF COTTON CONTRACT PROBLEM IN A MEETING WITH MRS. ALICIA REYES, DBP, ON AUGUST 7. AREAS COVERED INCLUDED PROBLEMS WITH SOLID MILLS UNUSUAL L/C SPECIFICATION, YUPANGCO-CIEC NONPERFORMANCE, LIRAG'S DELAY IN OPENING PERIOD II L/C'S, INTERNATIONAL TEXTILE'S DELAY IN OPENING ALL L/C'S AND ALLENBERG-CENTRAL PROBLEM ON 412 BALES DIVERTED UNDER SALE NO. 5712. WE BELIEVE DBP IS MAKING SOME PROGRESS ON THESE PROBLEMS. END SUMMARY.

1. SOLID MILLS L/C APPLICATIONS HAVE BEEN REVIEWED BY DBP LEGAL DEPT

AND LEGAL OPINION RENDERED WAS THAT SOLID MILLS COULD INCLUDE SPECIAL INSTRUCTION REQUIRING THIRD PARTY QUALITY AND WEIGHT SURVEY PRIOR TO SHIPMENT. MRS. REYES WAS REMINDED THAT THE PROVISION WAS NOT IN THE SALES CONTRACT AND THAT IMPOSITION OF ADDITIONAL EXPENSE ON SHIPPER WITHOUT HIS PRIOR CONSENT IS UNREASONABLE. MRS. REYES INDICATED THAT SOLID APPARENTLY IS WILLING TO DELETE SPECIAL L/C PROVISION IN CASES WHERE CARRYING CHARGES ARE WAIVED. IN THIS CASE THE PROBLEM MAY BE RESOLVED ON PERIOD II SHIPMENTS BECAUSE QUOTE AGENTS FOR C. ITO AND COOK HAS AGREED TO WAIVE CARRYING CHARGES IF ANY ONE OF THE SHIPPERS INVOLVED AGREED TO WAIVE THESE CHARGES.END  
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QUOTE. SHE PROVIDED A COPY OF SOLID MILLS LETTER TO DBP AND VENTURED

THE OPINION THAT SOLID WOULD BE DIFFICULT TO DEAL WITH ON THE ALLENBERG SHIPMENT UNLESS ALLENBERG WAIVED CARRYING CHARGES AS THEY APPARENTLY DID FOR UNIVERSAL TEXTILES, A SISTER-COMPANY OF SOLID MILLS.

2. FOLLOWING IS TEXT OF MAIN CLAUSES LETTER OF JULY 21 FROM SOLID MILLS TO DBP: QUOTE DEAR GOV. DE OCAMPO:  
WITH REFERENCE TO YOUR TELEGRAM OF JULY 18 REGARDING  
LETTER-REQUEST FROM C. ITOH, PERMIT US TO PRESENT OUR SIDE:

OUR CLAUSE REQUIRING CERTIFICATION OF WEIGHT AND QUALITY IS A PERFECTLY NORMAL, REASONABLE AND ACCEPTED TERMS, IN FACT, IT IS A STANDARD STIPULATION OR PRACTICE AMONG COTTON TRADERS EVERYWHERE WHEN RAW COTTON WAS FIRST OFFERED AND TRADED WAY BACK IN THE 1950'S SUCH STIPULATION FOR U.S. AGRICULTURE DEPARTMENT'S CERTIFICATION AS TO WEIGHT AND QUALITY/TYPE WAS THE ACCEPTED AND STANDARD REQUIREMENTS.

WHEN COTTON SHIPPERS WORKED SO HARD TO HAVE THE WEIGHT CERTIFICATION CLAUSE DELETED, IT ONLY SERVED TO REVEAL THEIR BAD FAITH. FOR COMPARISON, PLEASE CHECK INTO STIPULATION REGARDING WEIGHT AND QUALITY IMPOSED BY U.S. BUYER OF OUR AGRICULTURAL PRODUCTS.

WE HAVE RELIABLE INFORMATIONS THAT THE INTENTION OF COTTON SHIPPER IS TO CHEAT US ON THE WEIGHT OF FAW COTTON SHIPMENTS. WHEN WE FILE CLAIMS FOR WEIGHT SHORTAGE, THEY WILL COUNTER WITH THEIR BILL FOR CARRYING CHARGES.

RECENTLY, MR. BAGGETT OF ALLENBERG GAVE VERBAL CONSENT TO UTEX TO WAIVE ALL CLAIMS ON CARRYING CHARGES BUT HE REFUSED TO EXTEND SAME TERMS TO SOLID MILLS. WHY THIS DISCRIMINATION?  
END OF QUOTE.

3. THE ONLY OTHER SHIPPER THAT HAS A PENDING PROBLEM WITH SOLID IS DUNAVANT AND ACCORDING TO LATTER FIRM'S AGENT, DUNAVANT INDICATED IN A CABLE AUGUST 8 THAT FIRM IS WILLING TO ACCEPT THE L/C WITH THE SPECIAL CLAUSE INCLUDED. AGENT REMARKED THAT THIS WAS QUITE EMBARRASSING INASMUCH AS HE HAD BEEN MAKING STRONG REPRESENTATIONS TO BOTH SOLID AND DBP ABOUT THE NON-ACCEPTABILITY LIMITED OFFICIAL USE

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OF THE CLAUSE.

4. MRS. REYES REPORTED DBP HAD DETERMINED THAT YUPANGCO HAS USED ALL THE COTTON REMAINING FROM CIEC'S FIRST SHIPMENT UNDER CONTRACT NOS. CAG-439 AND 440 AND THAT ANOTHER APPROACH TOWARD RESOLUTION OF PROBLEM MUST BE PURSUED. MRS. REYES SUGGESTED ALTERNATIVE MAY BE TO INCLUDE THIRD PARTY QUALITY CERTIFICATION PRIOR TO SHIPMENT IN L/C INSTRUCTIONS. WE REMINDED MRS. REYES THAT INCLUSION OF

SUCH CLAUSE WOULD HAVE TO BE BY PRIOR MUTUAL CONSENT OF BOTH CIEC AND YUPANGCO. SHE SAID THAT SHE WOULD CONTACT TYPOCO OF YUPANGCO AND CIEC'S AGENT TO DISCUSS THE MATTER. WE POINTED OUT THAT CIEC OFFERED YUPANGCO QUALITY INSPECTION PRIOR TO SHIPMENT IN LATTER PART OF 1974 BUT THAT YUPANGCO DID NOT ACCEPT THE PROPOSITION AT THAT TIME. CIEC'S LETTER OF OCTOBER 3RD, 1974 IN REGARD TO THE LETTERS OF CREDIT DUE US ON COTTON PURCHASED BY YOU.

SINCE YOU ARE SO MUCH CONCERNED ABOUT THE QUALITY TO BE SHIPPED BY US WE PROPOSE THAT ON FUTURE SHIPMENTS 100% OF THE SAMPLES WILL BE INSPECTED BEFORE SHIPMENT AT OUR EXPENSE BY GENERAL SUPERINTENDENCE CO., LTD.

VERY TRULY YOURS,

COTTON IMPORT AND EXPORT CO.  
(SIGNED) MAX B. VERNON VICE  
PRESIDENT

END QUOTE.

WE BELIEVE SUGGESTED COURSE OF ACTION WORTHY OF PURSUIT AND WILL REPORT ON DEVELOPMENTS.

5. LIRAG HAS NOT YET OPENED PERIOD II L/C'S, BUT MRS. REYES INDICATED LIRAG WILL OPEN THESE L/C'S WITHIN A SHORT TIME.

6. INTERNATIONAL TEXTILES L/C APPLICATIONS ARE ON FILE WITH DBP BUT HAVE NOT BEEN FORWARDED TO U.S. BANKS BECAUSE UNENCUMBERED PORTION OF INTERNATIONAL'S MORTGAGES ON FILE WITH DBP AS COLLATERAL ARE INSUFFICIENT TO SECURE VALUE OF PROPOSED L/C'S. MRS. REYES FEELS THAT INTERNATIONAL IS CLOSE TO SUCCESS IN SECURING ACCEPTABLE THIRD PARTY COLLATERAL.

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7. ALLENBERG-CENTRAL PROBLEM (SEE TOFAS 121).

8. TO SUM UP THE CURRENT STATE OF PLAY, EXCEPT FOR ABOVE, ALL PERIOD I CONTRACTS CLEARED. AGAIN, EXCEPT FOR FOR SAME RECALCITRANTS, PERIOD II CONTRACTS ARE ALSO BEING CLEARED. HENCE, ONCE PERIOD I PROBLEMS ARE SOLVED, PERIOD II PROBLEMS ALSO SOLVABLE. THESE TWO PERIODS ACCOUNT FOR OVER NINE-TENTHS OF PROBLEM AND L/C'S FOR AT LEAST 60 PERCENT OF TOTAL CONTRACTED COTTON HAVE ALREADY BEEN OPENED.  
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